

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of HENRY WASHINGTON JONES,
IV, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

HENRY WASHINGTON JONES,

Respondent-Appellant,

and

CAMILLE C. EPHRIAM,

Respondent.

UNPUBLISHED

June 14, 2007

No. 271500

Wayne Circuit Court

Family Division

LC No. 00-393906-NA

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii), (g), (j), and (k). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in determining that clear and convincing evidence established at least one of the grounds for terminating respondent-appellant's parental rights. *In re Trejo*, 462 Mich 341, 356-357, 612 NW2d 407 (2000). Respondent-appellant told petitioner that he wanted the minor child, who had been born with cocaine in his system, yet the only plan he had was to live with the minor child's mother who admitted to a long history of drug use, previously had her rights to two other children terminated, and admitted to using cocaine while pregnant with the minor child. Respondent-appellant was allowed weekly supervised visitation with the minor child but never once visited with him. Respondent-appellant was advised of a team decision making meeting by petitioner but did not attend. Respondent-appellant did not contact petitioner to find out how the minor child was doing, did not provide support for him, did

not take any action to become the legal father,¹ and did not attend the termination hearing. This evidence was sufficient to terminate respondent-appellant's parental rights pursuant to MCL 712A.19b(3)(g) and (j).

Termination pursuant to subsection (a)(ii) and (k) would have been in error because 91 days had not elapsed between the date of the minor child's birth and the termination hearing. Any such error in termination pursuant to this section, however, would have been harmless because other statutory grounds were proven by clear and convincing evidence. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Furthermore, the evidence did not establish that the minor child's best interests precluded termination of respondent's parental rights. The child was born with cocaine in his system, and the child's mother had a long history of substance abuse and previous terminations of parental rights to other children. Respondent's sole plan for caring for the minor child was to take the child home with him to live with the child's mother. The child needed permanence and stability, which respondent was not able to provide. Respondent failed to establish paternity of the child, failed to participate in team decision making regarding the child, and failed to offer a safe plan for the child. Therefore, the trial court did not err in terminating his parental rights. *Trejo, supra* at 357.

¹ There is no question under the Michigan Court Rules who is determined to be a father for purposes of these proceedings. MCR 3.903(A)(7) sets forth the legal requirements for a person who is either a father because of the circumstances (he is married to the mother at any time from the date of conception to the date of birth) or because he acknowledges paternity and fills out the appropriate paperwork in accordance with the court rule. In termination proceedings, the trial court has discretion to notify putative fathers and/or determine that a putative father is in fact a natural father pursuant to MCR 3.921(C) and give the putative father 14 days to establish his relationship according to MCR 3.903(A)(7). In this case, respondent-appellant was provided with personal service of the proceedings. Petitioner personally delivered papers to respondent-appellant, informed him of the need to come to the preliminary hearing, provided him with a copy of the placement orders that the minor child was being placed, and reminded him that he needed to sign the birth certificate. Respondent-appellant attended the preliminary hearing and the pretrial, he was represented by an attorney throughout the proceedings, the trial court advised him that the petition was to be amended to terminate any and all parental rights of any known and unknown father, and the trial court made it clear to respondent-appellant that he had an obligation to establish paternity to be considered the legal father of the minor child. Respondent-appellant was not entitled to any other notice when he had actual notice, attended the preliminary hearing, and attended the pretrial, and the trial court did not have an obligation to hold a hearing to determine whether respondent-appellant was a legal father. Respondent-appellant took no action to sign the birth certificate even though he was advised to do so by the petitioner. Furthermore, respondent-appellant took no action to acknowledge paternity even though the trial court advised him that to be considered the legal father, he must do so.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio